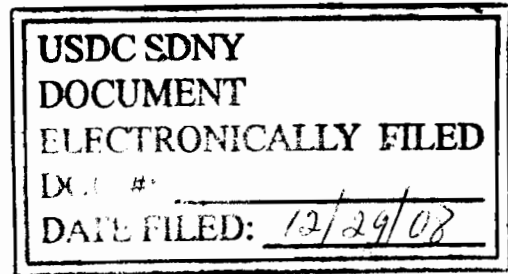


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- x

JAMES RATTOBALLI, :

Petitioner, : 08 Civ. 8107 (TPG)

- against - :

OPINION

UNITED STATES OF AMERICA, :

Respondent. :

----- x

On December 23, 2008 petitioner moved for reconsideration of the court's December 19, 2008 opinion denying petitioner's motion under 28 U.S.C. § 2255. The motion also asked for reconsideration of the court's December 19 order denying oral argument and denying an adjournment of petitioner's surrender date. Finally, petitioner moved for a certificate of appealability in the event that the motions for reconsideration should be denied.

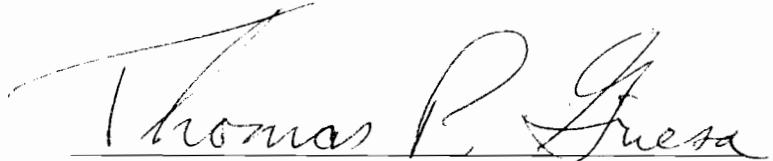
Argument on the applications was held by telephone conference on December 24. Petitioner's attorney waived petitioner's participation.

At the conclusion of the argument, the court denied the motion for reconsideration of the § 2255 opinion. Since oral argument has now been held, that application is moot. The court reserved decision regarding a certificate of appealability. Petitioner withdrew the application to have the surrender

adjourned from the present date of January 2, 2009.

SO ORDERED.

Dated: New York, New York
December 29, 2008



THOMAS P. GRIESA
U.S.D.J.